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COSTLESS WHOLESALE, INC. A CALIFORNIA CORPORATION,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
~~X~~CENTRAL JUSTICE CENTER
North Kt**

COSTLESS WHOLESALE, INC. A CALIFORNIA CORPORATION		Assigned for All Purposes
		Judge Craig Griffin
		30-2023-01313711-CU-BT-NJC
) COMPLAINT FOR		
) Plaintiff,		
vs.		
AMAZON.COM SERVICES LLC a Delaware limited liability company and DOES 1 through 100 inclusive,		
Defendants.		
<ul style="list-style-type: none">) (1) BREACH OF FIDUCIARY DUTIES) (2) NEGLIGENCE) (3) FRAUDULENT CONCEALMENT AND NONDISCLOSURE) (4) INTENTIONAL MISREPRESENTATION) (5) NEGLIGENT MISREPRESENTATION) (6) BREACH OF RELATIONSHIP OF TRUST AND CONFIDENCE) (7) VIOLATION OF BUSINESS & PROFESSIONS CODE SECTION 17200, ET SEQ.) (8) BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING) (9) BREACH OF CONTRACT) (10) DECLARATORY RELIEF 		

- (10) DECLARATORY RELIEF
 - (11) ACCOUNTING
 - (12) INJUNCTIVE RELIEF

Comes now Plaintiff COSTLESS WHOLESALE, INC. A CALIFORNIA CORPORATION, (herein after referred to as "COSTLESS" or "Plaintiff") and alleges as follows:

PARTIES:

1. On information and belief, Defendant AMAZON.COM SERVICES LLC (“AMAZON” or “Defendant AMAZON”), is a Delaware limited liability company doing business in the County of Orange, State of California, and particularly in contracting with Plaintiff and other sellers to sell products through its website in Orange County.

2. Plaintiff COSTLESS WHOLESALE, INC. A CALIFORNIA CORPORATION, (“COSTLESS”) is a California Corporation and at all times relevant has been doing business in Orange County, California.

3. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues these Defendants by fictitious names.

4. After Plaintiff determines the true names and capacities of these Defendants, DOES 1 through 100, inclusive, Plaintiff will seek leave of court to amend this Complaint.

5. Defendants AMAZON and DOES 1 through 100, inclusive, shall hereinafter be referred to collectively as "defendants" or "Defendants."

FACTUAL BACKGROUND:

6. On information and belief, on or about January 1, 2018, Plaintiff entered into the agreement written by, set in all of its terms, and not subject to negotiation,

1 required by Defendants to sell his products through the website operated by
2 AMAZON. On information and belief, in consideration for those services, in
3 exchange for allowing Plaintiff to sell products on AMAZON's website, on or
4 about January 1, 2018, Defendants AMAZON and DOES 1 through 100, inclusive,
5 promised in writing to comply with the terms that they required using their
6 enormous market share and marketing power that Plaintiff obey to sell such
7 products in exchange for a portion of the proceeds of such sales through the
8 website operated by AMAZON pursuant to the agreement entered into by Plaintiff
9 and Defendants. Attached hereto as Exhibit "A" is a true and correct copy of this
10 "AMAZON Agreement" which is the January 1, 2018, AMAZON, distributor
agreement between Plaintiff and Defendants.

11 7. Pursuant to that AMAZON Agreement, AMAZON agreed to collect the
12 proceeds of sales and provide Plaintiff with his share after subtracting the shipping
13 costs and Amazon's share of the proceeds of such sales. Defendants did not
14 disclose to Plaintiff that the AMAZON Agreement was drafted to enable
15 Defendants to force Plaintiff to forfeit his goods and his share of the sales proceeds
16 of such goods through the AMAZON website. The terms of said AMAZON
17 Agreement were offered to Plaintiff (and other sellers) on a "take it or leave it"
18 position and were carefully drafted by Defendants to disregard their obligation to
19 give Plaintiff the benefit for which he had contracted with AMAZON, circumvent
20 fundamental California laws and rights and so enable AMAZON to compel
21 Plaintiff to forfeit not just his portion from AMAZON's sale of his goods but even
22 the value of his goods, which he was induced by AMAZON to purchase and
23 deliver to AMAZON.

24 8. On information and belief, AMAZON drafted its agreement as part of its
25 scheme with the other defendants to defraud and deceive its sellers (including
Plaintiff) to sell their goods through it while it was enabled by that AMAZON

1 Agreement to force them to forfeit their sellers' portion of the proceeds of such
2 sales based on claims as to the sellers even though such claims were not
3 meritorious, were not adjudged to be true by any judicial procedure, and did not
4 pertain to the particular items which were sold through AMAZON, which were
5 thereafter not paid to such sellers by AMAZON. On information and belief,
6 Defendants, through AMAZON, even induced Plaintiff to give AMAZON their
7 goods, after the Investigation of Plaintiff by The CALIFORNIA HIGHWAY
8 PATROL (hereinafter "Investigation) had allegedly already been started and after
9 AMAZON had decided to keep the full proceeds from the sales of Plaintiff's goods
10 (including those sold after the Investigation started) by false pretenses and fraud in
11 disregard of their representations in the AMAZON Agreement by representations
12 that they made after that Investigation was already started. On information and
13 belief, because of the illegal purpose of Defendants in so drafting their AMAZON
14 Agreement to circumvent basic, California protections, such agreement was not
15 enforceable by Defendants due to its unconscionability or void because it was
against public policy.

16 9. On information and belief, AMAZON proceeded to sell the Plaintiff's
17 products on its website and received and distributed the customer's payments
18 including the share owed to Plaintiff until October 28,2020 at which time
19 AMAZON alleged that Plaintiff was being investigated by The CALIFORNIA
20 HIGHWAY PATROL and ceased paying the Plaintiff's promised portion of such
21 sales to Plaintiff citing alleged communications that it received from The
22 CALIFORNIA HIGHWAY PATROL.

23 10. On information and belief, to induce Plaintiff to continue selling
24 Plaintiff's merchandise through AMAZON, even after AMAZON had ceased
25 paying Plaintiff's share of such sales, on or about October 28, 2020, AMAZON
told Plaintiff to keep selling Plaintiff's products through AMAZON's website

despite the CALIFORNIA HIGHWAY PATROL's alleged Investigation and that Plaintiff would be paid soon thereafter.

11. Defendants, including defendant AMAZON, did not disclose to Plaintiff that AMAZON had a business practice and policy that it would not pay to Plaintiff the agreed portion owed to Plaintiff of the sales of Plaintiff's products if any investigation had been commenced against Plaintiff by The CALIFORNIA HIGHWAY PATROL, even if such an investigation was utterly frivolous, and unfounded, pertained to other goods not those delivered by Plaintiff to AMAZON or sold by AMAZON for Plaintiff, and even though Plaintiff had not actually engaged in any illegal behavior or misconduct and had not been judicially determined or adjudged in any legal proceeding to be selling illegal or stolen goods or any goods which did not belong to Plaintiff.

12. On information and belief, Defendants did not then or ever disclose to Plaintiff that AMAZON had a policy that Plaintiff's portion of the proceeds from his sale of his products through AMAZON's website would be taken by AMAZON for itself with no accounting being given to Plaintiff and would forfeit if AMAZON could claim that AMAZON's website had been used by Plaintiff to sell stolen or illegal products, even if such claims were untrue.

13. On information and belief, attached hereto collectively as Exhibit "B" are true and correct copies of the AMAZON policies, which effectively created a unilateral, forfeiture clause, so that Plaintiff could be deprived of his portion of the sums which were his share of the sales of his products through AMAZON, whenever AMAZON could claim that he had subjected AMAZON to potential liability (which documents, together with Exhibit "A," are referenced collectively herein as the "AMAZON Documents") that Plaintiff received from Defendants on or about January 1, 2018, through December 18, 2020AMAZON's website.

1 14. On information and belief, if Plaintiff had known that AMAZON
2 would later claim that Plaintiff would forfeit all of his share of the profits of sales,
3 amounting to over two hundred thousand dollars, if any unfounded claims were
4 made against Plaintiff by The CALIFORNIA HIGHWAY PATROL as to OTHER
5 goods, not even those which Plaintiff had sold through Amazon, Plaintiff would
6 not have delivered his goods to, or sold his goods through, AMAZON.

7 15. On information and belief, through defendant AMAZON, Defendants
8 falsely represented to Plaintiff, and thereby to Plaintiff that they would pay the full
9 portion of the sales proceeds from AMAZON's sale of his goods in its website
10 agreed to be paid to Plaintiff to Plaintiff, when they had no intent to pay such
11 proceeds and had a business practice and procedure to use any alleged claims
12 against any AMAZON sellers, including Plaintiff, to deny payment of the sellers'
13 portion of the sales proceeds through AMAZON if any claims were made by The
14 CALIFORNIA HIGHWAY PATROL as to those sellers, even if those claims did
not pertain to those particular goods sold through AMAZON.

15 16. On information and belief, Plaintiff relied upon those representations
16 by defendants and believed that defendants, including AMAZON, would pay the
17 full proceeds under the AMAZON agreement but defendants have continually
18 refused to pay Plaintiff's share of the proceeds of the sales of his goods through the
19 AMAZON website.

20 17. On information and belief, Defendants did not fully perform as
21 agreed, but only paid Plaintiff for goods of Plaintiff sold before on or about
22 September 01, 2020 and nothing for goods which Plaintiff sold through the
23 AMAZON website after October 28, 2020, so that Defendants kept Plaintiff's
24 entire portion of the proceeds from the sales of Plaintiff's goods through the
25 AMAZON website.

1 18. On information and belief, Defendants did not disclose to or inform
2 Plaintiff that AMAZON had a policy and business practice of not telling other
3 AMAZON sellers that AMAZON, and defendants DOES 1 through 100, would use
4 any claims made against such sellers by The CALIFORNIA HIGHWAY PATROL,
5 even unfounded claims pertaining to products not sold through AMAZON to deny
6 such sellers payment of their share of the sales proceeds of their goods sold by
7 AMAZON under AMAZON's policies.

8 19. On information and belief, Defendants never disclosed to Plaintiff and
9 suppressed the fact that Defendants, AMAZON and DOES 1 through 100, never
10 intended to perform the AMAZON Agreement or to pay the Plaintiff's portion of
11 the proceeds of the sales of Plaintiff's goods through the AMAZON website on the
12 terms represented to Plaintiff and obtained Plaintiff's property by not disclosing
13 that they did not intend to pay the full proceeds under the Agreement owed to
14 Plaintiff because they had the business practice and policy to deny payment if any
15 claims or investigations as to Plaintiff's account or sales through AMAZON's
16 website were commenced, even if Plaintiff was innocent of any wrongdoing, even
17 if the proceeds that AMAZON withheld were for goods as to which no claims of
18 illegality or of their being stolen goods were ever made and even if AMAZON had
19 no valid reason to withhold payment of Plaintiff's share of his sales through the
AMAZON website.

20 20. On information and belief, Plaintiff was thereby induced by
21 Defendants to rely and did rely upon Defendants' promises in the AMAZON
22 Agreement and so did turnover and sell his products through AMAZON's website,
23 because Plaintiff trusted defendant AMAZON due to its relationship of trust and
confidence with Plaintiff.

24 21. On information and belief, in this transaction involving the AMAZON
25 Agreement, due to its prior relationship with Plaintiff as his website sales provider

1 since 2018, defendant AMAZON had a relationship of trust and confidence with
2 Plaintiff, who relied upon it to exercise due care and comply with its duties of
3 utmost loyalty to him due to that relationship, particularly since AMAZON knew
4 that Plaintiff was turning over his merchandise to AMAZON to sell in reliance on
5 the expectation that he would receive his portion from the sales of his merchandise
6 after it was sold through the AMAZON website by AMAZON.

7 22. On information and belief, Defendants, through AMAZON,
8 represented to Plaintiff that Plaintiff would be paid his share of the proceeds of his
9 merchandise sales through AMAZON to induce him to turnover his merchandise to
10 AMAZON and did so induce Plaintiff to turn over his merchandise to AMAZON.
11 Hence, through their representations, Defendants did induce Plaintiff to rely on the
12 promises in the AMAZON Agreement and such representations.

13 23. Thereby, by those actions, Plaintiff, who had been a long-standing
14 distributor of AMAZON for years was induced and deceived by AMAZON into
15 relying on Defendants' representations by turning over his merchandise to
16 AMAZON even after AMAZON had refused to pay him his portion of the
17 proceeds from the sales through AMAZON of his goods due to the alleged
California Highway Patrol investigation of Plaintiff.

18 24. On information and belief, for many months, through defendant
19 AMAZON, Defendants intended to cause Plaintiff, and caused Plaintiff to rely
20 upon the aforementioned promises in the AMAZON Agreement that they would
21 eventually pay Plaintiff his share of his merchandise sales through AMAZON,
22 when Defendants did not intend to pay him for such ongoing sales after the alleged
23 Investigation first occurred, so the total amount withheld by AMAZON from
24 Plaintiff's portion of the sales of his goods through the AMAZON website
25 increased significantly for months because of AMAZON's false representations to
Plaintiff.

1 25. On information and belief, at all relevant times since on or about
2 August 1, 2018, and thereafter, after the Investigation was begun and AMAZON
3 told Plaintiff to keep selling his goods through AMAZON, because he would be
4 paid his portion, Defendants intended that Plaintiff rely on the representations
5 made to him by Defendants that Plaintiff would be paid the full promised portion
6 from the sale of his merchandise through AMAZON to Plaintiff by defendant
7 AMAZON under its AMAZON Agreement.

8 26. On information and belief, Defendants never informed Plaintiff and
9 suppressed the fact that under the business practices and procedures of AMAZON,
10 Defendants would use any investigation or claims by law enforcement as to
11 Plaintiff or any seller on its website to refuse to pay such Plaintiff or any other
12 such seller his portion of such sales under their Agreement, so that such Plaintiff's
13 or such seller's merchandise would be received by AMAZON but such sellers,
14 including Plaintiff, would not be given their respective, promised portion from the
15 merchandise sales' proceeds of their goods after the said merchandise was sold
16 through AMAZON, despite the terms and promises in the AMAZON Agreement
17 because of said Investigation, even if no prosecution or other legal action was
taken by law enforcement authorities against such sellers.

18 27. Thus, on information and belief, by their business practice to deceive
19 sellers into relying on their agreements with AMAZON to turn over their
20 merchandise to be sold by AMAZON, sellers like Plaintiff were caused to suffer
21 the loss of their merchandise to AMAZON and of their portion of the sales
22 proceeds provided in the AMAZON Agreement, even though AMAZON did not
23 intend pay Plaintiff (or other sellers) anything for their merchandise sold through
24 AMAZON after the Investigation was allegedly commenced.

25 28. On information and belief, Plaintiff did reasonably believe and rely on
these representations and failures to disclose by Defendants, because Plaintiff had

1 no information or source of information as to Defendants' true, undisclosed
2 intentions or business practices or the falsehood of Defendants' promises or the
3 suppression by Defendants of the true facts, that AMAZON did not intend to pay
4 Plaintiff his portion from the sales of his merchandise through the AMAZON
5 website after the Investigation commenced and that it had a business practice to
6 seize their portion from such sales and not to pay its sellers if any investigation or
7 claim against them was made, even if such claims were unsupported by any
evidence.

8 29. Plaintiff attempted, through his counsel, to resolve this matter, but
9 Defendants and defendant AMAZON have all failed and refused to pay the full
10 proceeds payable from the sales of Plaintiff's merchandise despite Plaintiff's
11 requests. Attached hereto as Exhibit "C" is a true and correct copy of the letter to
12 AMAZON requesting that it pay the promised sums under the AMAZON
13 Agreement to Plaintiff.

14

15 **FIRST CAUSE OF ACTION**

16 *(Breach of Fiduciary Duties Against Defendants AMAZON,
and DOES 1 through 100.)*

17 30. The allegations of paragraphs 1 through 30, inclusive, are
18 incorporated by reference in this Cause of Action.

19 31. For purposes of this cause of action, "Defendants" are Defendants
20 AMAZON, and DOES 1 through 100.

21 32. On information and belief, Defendants, including AMAZON, were
22 Plaintiff's fiduciaries and agents as to its merchandise and the proceeds thereof,
23 whom Plaintiff believed would protect Plaintiff's interests and pay Plaintiff in full
24 his share of the profits, because they were acting as Plaintiff's fiduciaries and
25

1 agents in selling Plaintiff's merchandise through their website in exchange for a
2 portion of the sales proceeds.
3

4 33. On information and belief, Defendants' actions, as stated above,
5 constitute a material breach of the AMAZON Agreement and of Defendants'
6 fiduciary duties to Plaintiff.
7

8 34. On information and belief, each named and unnamed Defendant was
9 the agent, employee, joint venturer, or coconspirator of each other named and
10 unnamed Defendant, who, while acting, omitting to act, representing,
11 misrepresenting, concealing, and conspiring, was acting both for his, her, or its
benefit and advantage, as well as acting, omitting to act, representing,
misrepresenting, concealing, and conspiring, for the benefit of some or all of the
other Defendants.

12 35. On information and belief, Defendants, in doing the things mentioned
13 in this Complaint, were at all times acting within the course and scope of said
14 employment, agency, joint venture, and conspiracy, with the knowledge, consent,
15 approval, and ratification of each of the other Defendants.

16 36. Plaintiff complied with all the terms of the AMAZON Agreement and
17 caused the merchandise required under the AMAZON Agreement to be given by
18 Plaintiff to Defendants as required, to be sold pursuant to the AMAZON
19 Agreement through AMAZON's website but did not receive the agreed portion of
20 the sales proceeds required under the AMAZON Agreement from AMAZON.

21 37. On information and belief, despite Defendants, including AMAZON,
22 being Plaintiff fiduciaries, because they were Plaintiff's AMAZON agents in the
23 sale of and handling of Plaintiff's merchandise, Defendants (a) violated, breached,
and disregarded the AMAZON Agreement which they entered into with Plaintiff;
24 (b) violated and breached their fiduciary duties to Plaintiff; (c) breached their
25 agreement and promise to pay the agreed portion from the merchandise sales

1 proceeds upon sale of Plaintiff's goods through the AMAZON website; (d) failed
2 to disclose to Plaintiff that if Plaintiff or the merchandise that he was selling
3 through AMAZON were merely investigated or if any unsupported claims were
4 made against Plaintiff by law enforcement, AMAZON could and would use that
5 Investigation to refuse to pay Plaintiff his portion of the proceeds from the sale of
6 his merchandise; and (e) failed to complete the Defendants' required performance
7 under the AMAZON Agreement by ignoring Plaintiff's requests for explanations
8 or computations or to provide Plaintiff with any accounting of such proceeds or to
9 pay for Plaintiff's resulting damages.

10 38. On information and belief, Plaintiff did all or substantially all of the
11 significant things that the AMAZON Agreement required him to do or was
12 excused from having to do them. On information and belief, Plaintiff delivered his
13 merchandise to AMAZON in the expectation and in reliance on the AMAZON
14 Agreement and the promises of defendants that he would be paid his portion of the
15 sales proceeds by AMAZON.

16 39. On information and belief, all conditions specified in the contract with
17 AMAZON for Plaintiff's performance, if any, were met, waived, or excused.

18 40. Plaintiff was harmed and on information and belief, Defendants'
19 breach of fiduciary duties and their promises in violation of the AMAZON
20 Agreement were both substantial factors in causing Plaintiff's harm.

21 41. On information and belief, Plaintiff was harmed and Defendant's
22 breach of contract and the separate breach of their fiduciary duties to Plaintiff by
23 making false promises as pled in the above and incorporated paragraphs were the
24 primary and substantial factors in causing such harm.

25 42. On information and belief, each of Defendants planned to breach the
AMAZON Agreement and their fiduciary duties to Plaintiff and ratified the actions

1 of the other named Defendants in this action: including AMAZON, and DOES 1
2 through 100, inclusive.
3

4 43. On information and belief, Defendants, including Defendants DOES 1
5 through 100, ratified and approved the scheme of AMAZON, and DOES 1 through
6 100, inclusive, to obtain funds from Plaintiff by keeping Plaintiff's portion from
7 the proceeds of the sales of his goods as set forth above under the AMAZON
8 Agreement, then to breach the AMAZON Agreement and keep the entire proceeds
9 from the sales of Plaintiff's merchandise through its website, including the portion
10 owed to Plaintiff.

11 44. On information and belief, Defendants, including Defendants DOES 1
12 through 100, agreed with AMAZON, and DOES 1 through 100, inclusive, and
13 intended to breach the AMAZON Agreement ("Conspiracy"). On information and
14 belief, Defendants failed to disclose their plan to breach the AMAZON Agreement
15 because they never intended to pay the full sales proceeds as required in the
16 AMAZON Agreement from the sales of Plaintiff's merchandise via AMAZON's
17 website to Plaintiff.

18 45. On information and belief, Defendants, including defendant DOES 1
19 through 100, aided and abetted in the aforementioned breaches by giving
20 substantial assistance or encouragement to AMAZON, and DOES 1 through 100,
21 inclusive.

22 46. On information and belief, Defendants' conduct was a substantial
23 factor in causing harm to Plaintiff. On information and belief, Plaintiff has been
24 damaged in that Plaintiff has been forced to incur costs to seek to recover his
25 portion of the proceeds from AMAZON's sale of Plaintiff's merchandise through
its website which were required to be paid to Plaintiff under the AMAZON
Agreement, including attorney's fees and costs to recover his damages, lost interest

1 on the unpaid merchandise proceeds, and expects to incur further incur more such
2 costs as a result of Defendants' conduct.
3

4 47. On information and belief, because Plaintiff was relying on
5 Defendants and AMAZON, AMAZON and Defendants obtained Plaintiff's funds,
6 which were Plaintiff's portion from the sales of his goods, through fraud without
7 intending to actually deliver to Plaintiff his portion of the proceeds from
8 AMAZON's sales of his merchandise as required in the AMAZON Agreement.
9 Plaintiff had to rely on their representations and justifiably believed and relied on
10 the Defendants' false representations.

11 48. On information and belief, Plaintiff did not know before the time
12 when Plaintiff caused the delivery of his merchandise to AMAZON, under the
13 AMAZON Agreement to get his portion from the sales of such merchandise when
14 AMAZON later sold it, that defendants AMAZON and DOES 1 through 100,
15 inclusive, did not intend that Plaintiff would receive his portion of such sales
proceeds if any law enforcement investigation was even commenced of Plaintiff or
of his merchandise sales through AMAZON.

16 49. On information and belief, under the AMAZON Agreement,
17 Defendants agreed among themselves to use representations that they knew were
18 false and promises that they never intended to keep to cause Plaintiff to give them
19 Plaintiff's merchandise in reliance on their promises and the AMAZON
20 Agreement.

21 50. On information and belief, all Defendants intended to deceive and
22 defraud Plaintiff into turning over his merchandise to AMAZON under the
23 AMAZON Agreement to enable their obtaining not just AMAZON's portion but
24 also Plaintiff's portion of the proceeds from the sale of Plaintiff's merchandise of
25 Plaintiff's funds and thus keeping all of Plaintiff's portion of the sales proceeds

1 from the sale of Plaintiff's merchandise by concealing their true intent not to
2 comply with the AMAZON Agreement.

3 51. On information and belief, Defendants committed the acts alleged
4 herein maliciously, fraudulently, and oppressively, in bad faith, with the wrongful
5 intention of injuring Plaintiff, in disregard of the likelihood of injuring Plaintiff, in
6 disregard of their fiduciary relationship with Plaintiff and duties arising from it
7 owed to Plaintiff because their co-conspirator, AMAZON, had a fiduciary
8 relationship with Plaintiff and planned to defraud Plaintiff by failing to disclose
9 their plan and the fact that Plaintiff's portion of the proceeds from AMAZON's
10 sales of his merchandise would not be delivered to Plaintiff as promised in
11 furtherance of the Conspiracy from an improper and evil motive amounting to
malice, and in conscious disregard of Plaintiff's rights.

12 52. On information and belief, Plaintiff thus is entitled to recover punitive
13 damages from Defendants in an amount according to proof.

14 53. On information and belief, Plaintiff is entitled to the additional sum of
15 \$50,000,000 from Defendants as punitive damages, which is a sum that will be
16 sufficient to deter and punish such conduct by Defendants.

17 54. On information and belief, as a result of Defendants' unfair business
18 practices and breach of the AMAZON Agreement Plaintiff is also entitled to
19 reasonable attorney's fees and costs of this suit under Cal. Civ. Code § 1717,
20 California Code of Civil Procedure §1021.5, or other applicable statute.

21 55. On information and belief, as a result of Defendants' unfair business
22 practices and breach of the AMAZON Agreement and fiduciary duties owed to
23 Plaintiff, Plaintiff is also entitled to interest at the legal rate on his portion of his
24 merchandise sales proceeds, through the AMAZON website, that remain unpaid
25 and, on the costs, and legal fees incurred by Plaintiff to recover such sums at the
legal rate of ten percent (10%) per annum from December 1, 2021.

SECOND CAUSE OF ACTION

(Negligence Against Defendants AMAZON and DOES 1 through 100.)

3 56. The allegations of paragraphs 1 through 30, inclusive, are
4 incorporated by reference in this Cause of Action.

5 57. For purposes of this cause of action, "Defendants" are Defendants
6 AMAZON and DOES 1 through 100.

7 58. On information and belief, Defendants failed to use reasonable care
8 and violated the standard of care in their dealings regarding Plaintiff and Plaintiff's
9 merchandise, the proceeds from the sale of Plaintiff's merchandise and regarding
10 the AMAZON Agreement as enumerated in the incorporated paragraphs.

11 59. On information and belief, despite their policy to withhold the sales
12 proceeds from sellers who were investigated by The CALIFORNIA HIGHWAY
13 PATROL, Defendants carelessly and negligently failed to disclose to Plaintiff, that
14 Plaintiff's merchandise or Plaintiff's share of the proceeds of the sales of such
15 merchandise might be forfeited if any law enforcement agency even started a mere
16 investigation of Plaintiff or of his merchandise, or made any claims, even if such
17 an investigation or claims were unfounded and frivolous, then failed to diligently
18 and adequately investigate Plaintiff's merchandise and his sales to verify that he
19 had never violated the law or sold stolen or illegal merchandise, and then failed to
20 comply with their promise to give to Plaintiff his portion of the proceeds from
21 AMAZON's sales of his merchandise to Plaintiff without reasonable cause after
22 Plaintiff had turned over to Defendants his merchandise in reliance on the
23 AMAZON Agreement, the aforementioned representations by AMAZON after the
24 Investigation had started, and on the fiduciary duties owed to him by Defendants
25 through AMAZON.

1 60. On information and belief, Defendants obtained the merchandise of
2 Plaintiff pursuant to the AMAZON Agreement while failing to disclose to Plaintiff
3 that if any law enforcement investigation were merely commenced, Defendants
4 would use it as an excuse to refuse to pay to Plaintiff his portion of the sales of his
5 merchandise through the AMAZON website as required by the AMAZON
6 Agreement.

7 61. By these actions, nondisclosures, and false representations, on
8 information and belief, AMAZON negligently, carelessly, and due to lack of
9 diligence purportedly failed to discover that the law enforcement Investigation was
10 unsupported by evidence and frivolous and that Plaintiff had not violated any law
11 and so negligently and carelessly created an excuse to refuse to pay the full,
12 promised part owing to Plaintiff from the sale of his merchandise through the
AMAZON website.

13 62. On information and belief, Defendants failed to use the skill and care
14 that reasonable persons would have used in similar circumstances in their dealings
15 regarding the AMAZON Agreement.

16 63. On information and belief, Defendants, by the aforementioned
17 actions, also violated their duties of loyalty and of full disclosure due to their
18 relationship of trust and confidence with Plaintiff, which reasonably careful
19 persons would have complied with in similar circumstances in their dealings with
20 Plaintiff under their AMAZON Agreement.

21 64. On information and belief, Plaintiff was harmed as a result of
22 Defendants' negligence, and Defendants' negligence was a substantial factor in
23 causing Plaintiff's harm, including suffering the loss of his portion of the sales
24 proceeds of his merchandise through the AMAZON website, forcing Plaintiff to
25 lose interest on said sums and to incur legal fees and costs to recover those
proceeds under the AMAZON Agreement.

65. On information and belief, Plaintiff is entitled to reasonable attorney's fees and costs of this suit under *Cal. Civ. Code* § 1717, and other applicable statutes.

66. On information and belief, Plaintiff is also entitled to interest at the legal rate on his portion of the unpaid proceeds from AMAZON's sale of his merchandise through the AMAZON website that remain unpaid and, on the costs, and legal fees incurred by Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum from December 1, 2021.

THIRD CAUSE OF ACTION

*(Fraudulent Concealment and Nondisclosure Against Defendants AMAZON
and DOES 1 through 100.)*

67. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

68. For purposes of this cause of action, "Defendants" are Defendants AMAZON and DOES 1 through 100.

69. On information and belief, each named and unnamed Defendant was the agent, employee, joint venturer, or coconspirator of each other named and unnamed Defendant, who, while acting, omitting to act, representing, misrepresenting, concealing, and conspiring, was acting both for his, her, or its benefit and advantage, as well as acting, omitting to act, representing, misrepresenting, concealing, and conspiring, for the benefit of some or all of the other Defendants.

70. On information and belief, Defendants, in doing the things mentioned in this Complaint, were at all times acting within the course and scope of said employment, agency, joint venture, and conspiracy, with the knowledge, consent, approval, and ratification of each of the other Defendants.

1 71. On information and belief, through false representations and promises
2 that Defendants did not intend to keep, Defendants, caused Plaintiff to deliver to
3 them Plaintiff's merchandise under the AMAZON Agreement with Defendants
4 without Defendants telling Plaintiff the critical, material fact that if any law
5 enforcement agency even commenced an investigation or made any unsupported
6 claims against Plaintiff then Defendants would not pay Plaintiff his portion of the
7 sales of Plaintiff's merchandise by the AMAZON website as promised such
8 merchandise was sold through AMAZON and instead intended to keep both
9 Plaintiff's merchandise and the Plaintiff's portion from the sales of Plaintiff's
10 merchandise through the AMAZON website that was to have been paid to Plaintiff
under the AMAZON Agreement.

11 72. On information and belief, Defendants AMAZON, and DOES 1
12 through 100, inclusive, all entered into a conspiracy and agreement to deceive
13 Plaintiff and cause him to deliver Plaintiff's merchandise to Defendants under the
14 AMAZON Agreement in ignorance of the fact, which defendants concealed at all
15 relevant times, that Defendants did not intend to give Plaintiff his portion from the
16 sales of his merchandise as required by the AMAZON Agreement.

17 73. On information and belief, Defendants AMAZON, and DOES 1
18 through 100, inclusive, all intended to deceive Plaintiff and cause Plaintiff to
19 indirectly deliver his merchandise under the AMAZON Agreement in ignorance of
20 the fact that Defendants did not intend to give to Plaintiff his portion of the
21 proceeds from AMAZON's sales of his merchandise as required by the AMAZON
22 Agreement.

23 74. On information and belief, Defendants knew that Plaintiff relied on
24 their promises to give Plaintiff his portion of the sales proceeds of his goods
25 through AMAZON's website and did not disclose their intent not to comply with
their representations and promises to Plaintiff in the AMAZON Agreement but had

1 a secret, undisclosed plan and business practice to use the tactic of not conducting
2 investigations to verify that the law enforcement investigation was not well
3 founded so that they thereafter could use that law enforcement investigation to
4 avoid paying Plaintiff, as they did, and their other AMAZON sellers, the portion of
5 their merchandise sales proceeds to which they were entitled under their respective
6 agreements with Defendants.

7 75. On information and belief, because Defendants, through AMAZON,
8 had a relationship of trust and confidence with Plaintiff and were fiduciaries to
9 Plaintiff (as Plaintiff's agents selling Plaintiff's merchandise through the
10 AMAZON website) and had agreed with other Defendants to deceive Plaintiff into
11 giving Defendants his merchandise, Defendants had a duty to disclose their true
12 intent not to comply with AMAZON Agreement by paying Plaintiff his portion of
13 the sales proceeds for his merchandise if any law enforcement investigation was
14 commenced as to Plaintiff or his merchandise.

15 76. Despite their relationship of trust and confidence and duties arising
16 from it to him because AMAZON, on information and belief, and defendant DOES
17 1 through 100, were Plaintiff's agents in selling Plaintiff's merchandise and then
18 handling Plaintiff's portion of the sales proceeds, and delivering such to Plaintiff
19 and thereby Plaintiff's fiduciaries in receiving and holding Plaintiff's merchandise
20 from Plaintiff through the AMAZON Agreement, Defendants knowingly and
21 intentionally failed to disclose these material facts and secret business practices to
22 Plaintiff in violation of their relationship of trust and confidence and fiduciary
23 relationship with Plaintiff and thereby, caused Plaintiff's damages enumerated
24 below.

25 77. On information and belief, Defendants secretly agreed that Plaintiff
would not be given the information that Plaintiff's portion of the proceeds from
AMAZON's sales of his merchandise under the AMAZON Agreement, would not

1 be paid as provided under the AMAZON Agreement, because if Plaintiff had
2 known the truth concealed by defendants that would have caused Plaintiff not to
3 deliver his merchandise to Defendants under the AMAZON Agreement.

4 78. On information and belief, Plaintiff would not have delivered
5 Plaintiff's goods as he did under the AMAZON Agreement if he had known the
6 true intentions of Defendants as to this concealment and nondisclosure of material,
7 critical information.

8 79. On information and belief, Defendants actively and intentionally
9 concealed and suppressed their undisclosed intent not to comply with the
10 AMAZON Agreement by not paying to Plaintiff his portion of the proceeds from
11 AMAZON's sales of his merchandise to obtain the Plaintiff's goods from Plaintiff
as aforementioned.

12 80. On information and belief, all Defendants were aware that Plaintiff
13 was not going to be given his portion of the proceeds from AMAZON's sales of
14 his merchandise but concealed and misled Plaintiff and planned to conceal these
15 facts from Plaintiff.

16 81. On information and belief, Defendants agreed with the other
17 Defendants, ratified their actions, and intended that the concealment be committed.

18 82. Plaintiff was unaware of these facts which, on information and belief,
19 Defendants failed to disclose and could not reasonably have discovered this
20 information and would have behaved differently if he had known of the
concealment or the truth about the suppressed facts.

21 83. On information and belief, the Defendants' concealment or
22 suppression of these facts was a substantial factor in causing Plaintiff's harm.

23 84. On information and belief, Defendants all aided and abetted in the
24 concealment by giving substantial assistance or encouragement to the other
25 Defendants.

1 85. On information and belief, Defendants' conduct was a substantial
2 factor in causing harm to Plaintiff in that Plaintiff has been forced to incur interest,
3 incur attorney's fees and costs to recover his damages, including his emotional
4 distress, lost his share of the sales proceeds from AMAZON's sale of Plaintiff's
5 goods, lost interest on such share at the legal rate, and has had to incur further costs
6 as a result of Defendants' conduct.

7 86. On information and belief, all Defendants intended to deceive and
8 defraud Plaintiff into delivering his goods under the AMAZON Agreement to
9 enable their obtaining of Plaintiff's funds and keeping most of the sales proceeds
10 from the sales of Plaintiff's goods by concealing their true intent not to comply
11 with the AMAZON Agreement.

12 87. On information and belief, Defendants committed the acts alleged
13 herein maliciously, fraudulently, and oppressively, in bad faith, with the wrongful
14 intention of injuring Plaintiff, in disregard of the likelihood of injuring and
15 damaging Plaintiff, in disregard of the relationship of trust and confidence and
16 fiduciary relationship with Plaintiff and duties arising from it owed to Plaintiff
17 because their co-conspirator, AMAZON, had a relationship of trust and confidence
18 with and a fiduciary relationship with and planned to defraud Plaintiff by failing to
19 disclose their plan and the fact that Plaintiff's portion of the proceeds from
20 AMAZON's sales of his merchandise would not be delivered to Plaintiff as
21 promised in furtherance of the conspiracy from an improper and evil motive
22 amounting to malice, and in conscious disregard of Plaintiff's rights.

23 88. On information and belief, Plaintiff thus is entitled to recover punitive
24 damages from Defendants in an amount according to proof.

25 89. On information and belief, Plaintiff is entitled to the additional sum of
\$50,000,000 from Defendants as punitive damages, which is a sum that will be
sufficient to deter and punish such conduct by Defendants.

90. On information and belief, Plaintiff is entitled to reasonable attorney's fees and costs of this suit under Cal. Civ. Code § 1717, California Code of Civil Procedure §1021.5, and other applicable statutes.

91. On information and belief, Plaintiff is also entitled to interest at the legal rate on the Plaintiff's portion of sales proceeds from the sales by AMAZON of Plaintiff's goods that remain unpaid and also on the costs and legal fees incurred by Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum from October 28, 2020.

FOURTH CAUSE OF ACTION

*(Intentional Misrepresentation Against Defendants AMAZON
and DOES 1 through 100.)*

92. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

93. For purposes of this cause of action, "Defendants" are Defendants AMAZON and DOES 1 through 100.

94. On information and belief, each named and unnamed Defendant was the agent, employee, joint venturer, or coconspirator of each other named and unnamed Defendant, who, while acting, omitting to act, representing, misrepresenting, concealing, and conspiring, was acting both for his, her, or its benefit and advantage, as well as acting, omitting to act, representing, misrepresenting, concealing, and conspiring, for the benefit of some or all of the other Defendants.

95. On information and belief, Defendants, in doing the things mentioned in this Complaint, were at all times acting within the course and scope of said employment, agency, joint venture, and conspiracy, with the knowledge, consent, approval, and ratification of each of the other Defendants.

1 96. On information and belief, as stated in the above paragraphs,
2 Defendants promised and represented to Plaintiff under the AMAZON Agreement,
3 through AMAZON, that they would deliver the full portion owed to Plaintiff from
4 the sales proceeds from AMAZON's sales of Plaintiff's goods to Plaintiff after
5 those goods were sold according to the terms of the AMAZON Agreement despite
6 their actual, secret plan that Plaintiff's portion of the proceeds from AMAZON's
7 sales of his merchandise would not be delivered to Plaintiff as promised in
furtherance of the Conspiracy.

8 97. On information and belief, Defendants instead **intended to keep**
9 Plaintiff's goods and intended that Plaintiff's portion of the proceeds from
10 AMAZON's sales of his merchandise would not ever be delivered to Plaintiff as
11 promised in furtherance of the Conspiracy.

12 98. On information and belief, Defendants knew that Plaintiff relied on
13 their promises and did not disclose their intent not to comply with their promises to
14 Plaintiff. Defendants concealed and failed to disclose these material facts to
15 Plaintiff and promised to pay Plaintiff his share of the sales proceeds under the
16 Amazon Agreement if Plaintiff continued selling his goods through the AMAZON
17 website after the Investigation was concluded, and thereby induced Plaintiff to
18 continue delivering his goods to AMAZON to be sold after the Investigation had
19 started.

20 99. The information that Plaintiff's portion of the proceeds from
21 AMAZON's sales of his merchandise would not be delivered to Plaintiff as
22 promised would have caused Plaintiff not to deliver his goods under the AMAZON
23 Agreement, not to have proceeded with the AMAZON Agreement, and Plaintiff
24 would not also have continued to deliver his goods to AMAZON after the
25 Investigation was started.

1 100. On information and belief, Defendants AMAZON, and DOES 1
2 through 100, inclusive, all entered into a conspiracy and agreement to deceive
3 Plaintiff and cause him to pay the sums under the AMAZON Agreement in
4 ignorance of the fact that Defendants did not intend to perform according to the
5 AMAZON Agreement.

6 101. On information and belief, through their co-conspirators at
7 AMAZON, Defendants actively and intentionally misrepresented that they
8 intended to comply with their promises in the AMAZON Agreement with Plaintiff
9 as aforementioned.

10 102. On information and belief, Defendants knew that these representations
11 were false or made them recklessly without regard for their truth. On information
12 and belief, Defendants all knew that they (through AMAZON) were
13 misrepresenting material, and important facts about the AMAZON Agreement to
14 Plaintiff and approved of and ratified **such misrepresentations through**
15 AMAZON.

16 103. On information and belief, Defendants intended that Plaintiff rely on
17 these misrepresentations, and Plaintiff did rely on these misrepresentations. On
18 information and belief, including by not disclosing to Plaintiff their true intentions
19 and not disclosing the true facts after making the above promises, Defendants all
ratified and assisted their initial misrepresentations.

20 104. On information and belief, by falsely promising and not revealing that
21 they intended that Plaintiff's portion of the proceeds from AMAZON's sales of his
22 merchandise would not be delivered to Plaintiff as promised in furtherance of the
23 Conspiracy, Defendants disregarded and violated their relationship of trust and
24 confidence and fiduciary relationship and duties arising therefrom of due care and
25 of loyalty owed to Plaintiff because their co-conspirator and partner (AMAZON)

had a relationship of trust and confidence and was a fiduciary of Plaintiff and had a duty to disclose material facts and misrepresentations to Plaintiff.

105. On information and belief, Plaintiff was harmed, and Plaintiff's reliance on Defendants' misrepresentations and failures to disclose made through AMAZON was reasonable and justified, because Plaintiff relied upon Defendant AMAZON to comply with its relationship of trust and confidence, fiduciary relationship, and duties arising from it to Plaintiff.

106. On information and belief, Defendants' failures to correct their misrepresentations (through AMAZON) made them materially misleading, (which misrepresentations were ratified by Defendants after they were made by AMAZON) and were a substantial factor in causing Plaintiff's harm.

107. Each of Defendants, on information and belief, was aware that AMAZON and DOES 1 through 100 planned to misrepresent and breach the AMAZON Agreement and mislead Plaintiff as aforementioned.

108. Defendants, on information and belief, agreed with AMAZON and intended that the misrepresentations be committed.

109. Defendants, on information and belief, aided and abetted in the misrepresentations by giving substantial assistance or encouragement to AMAZON, particularly by suppressing and failing to disclose their intent and AMAZON's plan and policy to not comply with the AMAZON Agreement, to cause Plaintiff to deliver his merchandise.

110. On information and belief, Defendants' conduct was a substantial factor in causing harm to Plaintiff. On information and belief, Plaintiff has been damaged in that Plaintiff has lost interest on the unpaid sum of Plaintiff's portion of the sales proceeds through AMAZON of his goods, been forced to incur costs to collect the sums owed to Plaintiff by Defendants, including attorney's fees and

1 costs to recover his damages, and will further incur more such costs as a result of
2 Defendants' conduct.

3 111. On information and belief, all Defendants intended to deceive and
4 defraud Plaintiff into delivering Plaintiff's goods under the AMAZON Agreement
5 while not delivering to Plaintiff his portion of the proceeds from AMAZON's sales
6 of his merchandise by making the aforementioned false representations.

7 112. On information and belief, Defendants committed the acts alleged
8 herein maliciously, fraudulently, and oppressively, in bad faith, with the wrongful
9 intention of damaging and injuring Plaintiff, in disregard of the likelihood of
10 injuring Plaintiff, in disregard of their duties to Plaintiff and to defraud Plaintiff by
11 causing Plaintiff to deliver to them Plaintiff's goods even though Plaintiff's portion
12 of the proceeds from AMAZON's sales of his merchandise would not be paid by
13 Defendants to Plaintiff as promised in furtherance of the conspiracy from an
14 improper and evil motive amounting to malice, and in conscious disregard of
Plaintiff's rights.

15 113. On information and belief, Plaintiff thus is entitled to recover punitive
16 damages from Defendants in an amount according to proof.

17 114. On information and belief, Plaintiff is entitled to Plaintiff's share of
18 the proceeds from AMAZON's sales of Plaintiff's goods from AMAZON's sales
19 of his goods which remains unpaid plus interest at the legal rate of 10% per annum
20 on such sum, legal fees, costs, and other damages from Defendants for his
21 aforementioned damages.

22 115. On information and belief, Plaintiff is entitled to the additional sum of
23 \$50,000,000 from Defendants as punitive damages, which is a sum that will be
24 sufficient to deter and punish such conduct by Defendants.
25

116. On information and belief, Plaintiff is entitled to reasonable attorney's fees and costs of this suit under *Cal. Civ. Code* § 1717, and other applicable statutes.

117. On information and belief, Plaintiff is also entitled to interest at the legal rate on Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods that remain unpaid and on the cost, and legal fees incurred by Plaintiff to recover such sums at the legal rate of ten percent 10% per annum from October 28, 2020.

FIFTH CAUSE OF ACTION

*(Negligent Misrepresentation Against Defendants AMAZON
and DOES 1 through 100.)*

118. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

119. For purposes of this cause of action, "Defendants" are Defendants AMAZON, and DOES 1 through 100.

120. On information and belief, Defendants falsely represented to Plaintiff (through AMAZON) that Plaintiff would be given Plaintiff's portion of the proceeds from AMAZON's sales of his merchandise under the terms of the AMAZON Agreement and negligently failed to reveal to Plaintiff that they would not deliver the full Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods if any investigation were started (or any claims of misconduct as to unrelated goods were made, even if such claims were unsupported by evidence) by any government agency against Plaintiff, or at least, by The CALIFORNIA HIGHWAY PATROL.

121. On information and belief, Defendants falsely did not disclose to Plaintiff that if any investigation of Plaintiff was started by any government

1 agency, or at least, by the CALIFORNIA HIGHWAY PATROL (or any claims of
2 misconduct as to unrelated goods were made, even claims unsupported by
3 evidence) then Plaintiff would not be given Plaintiff's portion of the proceeds from
4 AMAZON's sales of his merchandise under the terms of the AMAZON
5 Agreement.

6 122. On information and belief, Defendants had no reasonable **grounds for**
7 believing that the representations were true when they made them. Defendants
8 negligently and carelessly failed to inform Plaintiff of the truth of such material
9 facts, misrepresentations, and falsehoods.

10 123. On information and belief, Defendants intended that Plaintiff rely on
11 the misrepresentations, and suppressions of facts, and failed to reveal to Plaintiff
12 their policy and intent that Plaintiff's portion of the proceeds from AMAZON's
13 sales of his merchandise would not be delivered to Plaintiff as promised.

14 124. On information and belief, Plaintiff did reasonably rely on these
15 negligent misrepresentations and failures to disclose by Defendants because
16 Plaintiff had no source of information as to Defendants' secret, undisclosed policy
17 and plans, and had no reason to expect Defendants to refuse to pay him his share
18 from the proceeds of the sales of his goods by AMAZON.

19 125. On information and belief, Plaintiff was harmed as a result of
20 Defendants' failures to disclose and negligent, false representations and promises,
21 and Plaintiff's reliance on the misrepresentations was a substantial **factor in**
22 causing him harm.

23 126. On information and belief, each of the Defendants knew that
24 AMAZON and DOES 1 through 100 were negligently misrepresenting facts to
25 Plaintiff, concealing facts such as the intent to keep Plaintiff's merchandise
without paying him his portion from its sale and were thereby going to continue to

1 negligently misrepresent facts to Plaintiff and all Defendants carelessly and
2 negligently failed to disclose the true facts to Plaintiff.

3 127. On information and belief, Defendants ratified, approved of, and aided
4 and abetted the negligent misrepresentations by AMAZON and DOES 1 through
5 100 by giving substantial assistance or encouragement to him.

6 128. On information and belief, Defendants' conduct was a substantial
7 factor in causing harm to Plaintiff. Plaintiff has been damaged in that Plaintiff has
8 been forced to lose interest and incur costs to collect the sums required to be paid
9 to Plaintiff under the AMAZON Agreement from Defendants, which Defendants
10 are refusing to pay including attorney's fees and costs to recover his damages and
11 will incur further incur more such costs as a result of Defendants' conduct.

12 129. On information and belief, Plaintiff is entitled to Plaintiff's share of
13 the proceeds from AMAZON's sales of Plaintiff's goods which Defendants are
14 refusing to pay plus interest at the legal rate on such sum from Defendants for his
15 aforementioned damages.

16 130. On information and belief, as a result of Defendants' negligent,
17 careless, false representations, unfair business practices and breach of the
18 AMAZON Agreement Plaintiff is also entitled to reasonable attorney's fees and
19 costs of this suit under Cal. Civ. Code § 1717, or other applicable statutes.

20 131. On information and belief, Plaintiff is also entitled to interest at the
21 legal rate on the Plaintiff's share of the proceeds from AMAZON's sales of
22 Plaintiff's goods that remain unpaid and, on the costs, and legal fees incurred by
23 Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum
24 from October 28, 2020.

25 ///

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SIXTH CAUSE OF ACTION

(*Breach Of Relationship Of Trust And Confidence Against Defendants, AMAZON and DOES 1 through 100.*)

132. The allegations of paragraphs 1 through 30, inclusive, are
incorporated by reference in this Cause of Action.

133. For purposes of this cause of action, “Defendants” are AMAZON, and
DOES 1 through 100, inclusive.

134. On information and belief, through Defendant AMAZON, Defendants
had a relationship of trust and confidence with Plaintiff as the seller of his goods
for years and duties arising from such relationship to Plaintiff to investigate,
discover, and disclose all material facts, disclose known errors or problems with
complying with or noncompliance with the AMAZON Agreement, account for and
pay over Plaintiff’s share of the proceeds from AMAZON’s sale of his
merchandise through its website and advise and consult with Plaintiff regarding the
effects that these material facts may have on Plaintiff’s decisions.

135. On information and belief, Defendants had a relationship of trust and
confidence and duties arising from AMAZON’s relationship as the existing seller
of the goods of Plaintiff and thereby duties to disclose all material information that
they knew or could reasonably obtain regarding whether they would pay the full
Plaintiff’s share of the proceeds from AMAZON’s sales of Plaintiff’s goods or
relating to the transaction.

136. On information and belief, Defendants breached their duties to
Plaintiff, particularly by failing to disclose that they would not deliver Plaintiff’s
portion of the proceeds from AMAZON’s sales of his merchandise according to
the terms of the AMAZON Agreement if any investigation of Plaintiff was started
(or any claims of misconduct were made even just claims that were factually

1 without support as to unrelated goods) by any government agency, or at least, by
2 The CALIFORNIA HIGHWAY PATROL.

3 137. On information and belief, each Defendant was aware that each other
4 Defendant was breaching their duties or was going to breach their duties.

5 138. On information and belief, each Defendant agreed with each other
6 Defendant and intended that their duties be breached.

7 139. On information and belief, each Defendant aided and abetted in the
8 breach of duties by giving substantial assistance or encouragement to each other
9 Defendant.

10 140. On information and belief, each Defendant committed negligence,
11 constructive fraud, or actual fraud in the breach of their duties.

12 141. On information and belief, Plaintiff was harmed, and Defendants'
13 breaches of their duties were a substantial factor in causing Plaintiff's harm.

14 142. On information and belief, Plaintiff is entitled to the Plaintiff's share
15 of the proceeds from AMAZON's sales of Plaintiff's goods plus interest at the
16 legal rate on such sum from Defendants for his aforementioned damages.

17 143. On information and belief, Plaintiff is also entitled to interest at the
18 legal rate on the Plaintiff's share of the proceeds from AMAZON's sales of
19 Plaintiff's goods that remain unpaid and, on the costs, and legal fees incurred by
20 Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum
from October 28, 2020.

21 **SEVENTH CAUSE OF ACTION**

22 *(Violation of Business and Professions Section 17200, et seq.,
23 Against Defendants, AMAZON and DOES 1 through 100.)*

24 144. The allegations of paragraphs 1 through 56, inclusive, are
25 incorporated by reference in this Cause of Action.

1 145. For purposes of this cause of action, "Defendants" are Defendants
2 AMAZON, and DOES 1 through 100.
3

4 146. On information and belief, Defendants had a policy, procedure, and
5 business practice of (a) not properly investigating claims or investigations against
6 their AMAZON sellers and (b) not informing their AMAZON sellers that
7 AMAZON would take Plaintiff's share of the proceeds from AMAZON's sales of
8 Plaintiff's goods if any government agency started any investigation of them
9 (including plaintiff) or made any claims against them even if such claims were not
10 supported by facts and pertained only to merchandise of Plaintiff that had not been
11 given to or sold by AMAZON.

12 147. On information and belief, Defendants had a policy, procedure, and
13 business practice of not disclosing to their AMAZON sellers (including Plaintiff)
14 or prospective other AMAZON sellers that if any seller (such as Plaintiff) was
15 investigated by any law enforcement agency or at least, by the CALIFORNIA
16 HIGHWAY PATROL (or even if claims that were not factually supported were
17 made against them Plaintiff) then AMAZON would refuse to pay their (and
18 Plaintiff's share) of the proceeds from AMAZON's sales of their (including
19 Plaintiff's) goods, so Defendants would then later deny Plaintiff's share of the
20 proceeds from AMAZON's sales of Plaintiff's goods to him based on such alleged
21 Investigation and claims.

22 148. On information and belief, by this unfair business practice, policy, and
23 procedure, Defendants denied payment of the Plaintiff's share of the proceeds from
24 the sales of his goods through the AMAZON website as aforementioned to
25 Plaintiff using such alleged CALIFORNIA HIGHWAY PATROL claims and
26 Investigation as the excuse for such denial.

27 149. On information and belief, Defendants have denied payment of
28 Plaintiff's share of the proceeds from the sales of his goods through the AMAZON

1 website amounting to hundreds of thousands of dollars to Plaintiff and totaling
2 millions of dollars to AMAZON's other sellers, who have also sold goods through
3 the AMAZON website then had their share of the proceeds of such sales pursuant
4 to their AMAZON agreements withheld from them by Defendants and if they had
acted as reasonable, diligent sellers and agents,

- 5 (a) Defendants would have informed Plaintiff and their other AMAZON
6 sellers of their policy not to pay Plaintiff or those other sellers if any
7 investigation were commenced against them by any government agency or
8 at least, by the CALIFORNIA HIGHWAY PATROL of if any claims (even
9 factually unsupported claims as to goods not sold through AMAZON or
10 delivered to AMAZON) were made against them;
- 11 (b) they would have informed Plaintiff and their other AMAZON sellers of
12 their policy not to pay Plaintiff or those other sellers if any claims were
13 made against them (even if such claims were not meritorious or did not
14 relate to their (Plaintiff's) sales through the AMAZON website whose
15 proceeds AMAZON has kept) by any government agency or at least, by the
16 CALIFORNIA HIGHWAY PATROL;
- 17 (c) they would have investigated those investigations and claims made
18 against those AMAZON sellers (and of Plaintiff) to ascertain that they were
19 without merit, and
- 20 (d) they would then have discovered such claims and the Investigation of
21 Plaintiff were meritless and were not supported by facts.

22 150. California's Unfair Competition Law, as codified by California
23 Business & Professions Code sections 17200, et seq., protects both consumers and
24 competitors by promoting fair competition in commercial markets for goods and
25 services. California's Unfair Competition Law is interpreted broadly and provides
a cause of action for any unlawful, unfair, or fraudulent **business act or practice**.

1 Any unlawful, unfair, or fraudulent business practice that causes injury to
2 consumers falls within the scope of California's Unfair Competition Law.
3

4 151. Defendants' acts and practices, as described herein, constitute
unlawful or unfair business practices against Plaintiff in violation of California
Business and Professions Code section 17200, et seq.

5 152. Concerning Plaintiff, these acts include, but are not limited to,

6 (a) failing to disclose to Plaintiff that if any government
7 agency or at least, if the CALIFORNIA HIGHWAY PATROL started
8 an investigation against Plaintiff, then Plaintiff would not be given
9 Plaintiff's portion of the proceeds from AMAZON's sales of his
merchandise under the terms of the AMAZON Agreement but such
portion would be withheld by Defendants;

10 (b) failing to notify Plaintiff of the consequences of any such
11 investigation started against him or any claims by any government
12 agency, or at least, by the CALIFORNIA HIGHWAY PATROL (even
13 if such claims were unsupported by evidence or pertained only to
14 goods that were not ever delivered by Plaintiff to AMAZON or which
15 were not sold through AMAZON), so that AMAZON would then
16 deny payment of the Plaintiff's portion of the proceeds from the sales
17 of his goods through the AMAZON website,
18

19 (c) failing to disclose to Plaintiff that if any investigation
20 were started against him (or any claims were made against him, even
21 if meritless or only as to unrelated goods of Plaintiff) by the
22 CALIFORNIA HIGHWAY PATROL, AMAZON would deny
23 payment of Plaintiff's share of the proceeds from the sales of his
24 goods through the AMAZON website under his AMAZON
25 Agreement.

1 153. On information and belief, Defendants' conduct constituted unlawful,
2 unfair, or fraudulent business acts or practices.

3 154. On information and belief, Plaintiff was harmed by Defendants'
4 conduct and unfair, unlawful, and fraudulent business practices.

5 155. On information and belief, the unlawful, unfair, or fraudulent business
6 acts or practices caused Plaintiff's injury.

7 156. Any claimed justification for Defendants' conduct is outweighed by
8 the gravity of the consequences to Plaintiff. Defendants' acts and practices **are**
9 immoral, unethical, oppressive, unconscionable, or substantially injurious to
Plaintiff, and/or tend to deceive Plaintiff and the Classes.

10 157. Because of Defendants' fraudulent, deceptive, unfair, and other
11 wrongful conduct as alleged herein, Defendants violated California Business and
12 Professions Code sections 17200, et seq., by consummating an unlawful, unfair,
13 and fraudulent business practice, designed to deprive Plaintiff of his respective
14 shares of the proceeds from the sales of their goods through the AMAZON website
15 of Defendants' services, including Plaintiff's share of the proceeds from
16 AMAZON's sales of Plaintiff's goods.

17 158. Defendants perpetrated these acts and practices against Plaintiff, and
18 the Classes, and as a direct and proximate result of the foregoing, Plaintiff and the
19 Classes have suffered and continue to suffer damages in a sum which is, as of yet,
20 unascertained. Under California Business and Professions Code section 17203,
21 Plaintiff is entitled to restitution of all the money received by Defendants for
22 retaining Plaintiff's share of the proceeds from the sales of his goods through the
23 AMAZON website that were due and owing to Plaintiff (with interest thereon)
24 from the sales of his goods (with interest thereon), to disgorgement of all
25 Defendants' profits arising out of their unlawful conduct (with interest thereon),
including all unpaid shares of the proceeds from AMAZON's sales of their goods

owing, and (as to Plaintiff) to be paid the full Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods due to Plaintiff under the AMAZON Agreement that Defendants wrongfully retained using its unlawful business practices.

159. Therefore, Plaintiff is entitled to the following injunctions:

- (a) For an order requiring Defendants, and each of them, to show cause, if any they have, why they should not be enjoined as set forth below, during the pendency of this action;
- (b) For a temporary restraining order, a preliminary injunction, and a permanent injunction, all enjoining Defendants AMAZON, and DOES 1 through 100, ("Defendants") inclusive as follows,
 - i. To provide to Plaintiff Plaintiff's full share of the proceeds from AMAZON's sales of Plaintiff's goods,
 - ii. To provide any to any Plaintiff of any lawsuits or arbitration claims made against Defendants full reimbursement of all sales proceeds obtained by these business practices enumerated above by any of Defendants as to which Defendants have not completed delivery of their respective seller's portion of the proceeds from AMAZON's sales of his or her or its merchandise;
 - iii. To provide to all other AMAZON sellers or prospective other AMAZON sellers who enter into any agreements with Defendants a written, 14-point, bold-face type warning and disclosure of the policy by AMAZON that if any investigation or any claim is brought by any government agency or at least, by the CALIFORNIA HIGHWAY

1 PATROL against them, then AMAZON will then deny
2 payment of their share of the proceeds of the sales of their
3 goods just as it denied Plaintiff payment of Plaintiff's share
4 of the proceeds from the sales of his goods through the
5 AMAZON website.

- 6 iv. To provide restitution to all other AMAZON sellers of
7 AMAZON of all unpaid proceeds from the sales of their
8 goods, including Plaintiff's share of the proceeds from
9 AMAZON's sales of Plaintiff's goods unless Defendants
10 have already delivered their respective portion of the
11 proceeds of the sales through AMAZON's website of their
12 respective goods to them under the terms agreed upon as
13 required by the respective, AMAZON agreements.

14 160. On information and belief, as a result of Defendants' unfair business
15 practices and breach of the AMAZON Agreement Plaintiff is also entitled to
16 reasonable attorney's fees and costs of this suit under California Civil Code §
17 1717, Business and Professions Code Section 17082, or other applicable statutes.

18 161. Under California Code of Civil Procedure section 1021.5, Plaintiff is
19 entitled to recover their reasonable attorney's fees in connection with Defendants'
20 unfair competition claims, the substantial benefit doctrine, and/or the common
fund doctrine.

21 162. On information and belief, Plaintiff is also entitled to interest at the
22 legal rate on the Plaintiff's share of the proceeds from AMAZON's sales of
23 Plaintiff's goods that remain unpaid and, on the costs, and legal fees incurred by
24 Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum
25 from December 1, 2021.

EIGHTH CAUSE OF ACTION

*(Tortious Breach of The Covenant of Good Faith And Fair Dealing
Against Defendants, AMAZON and DOES 1 through 100.)*

163. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

164. For purposes of this cause of action, "Defendants" are Defendants AMAZON and DOES 1 through 100.

165. On information and belief, there is an implied covenant of good faith and fair dealing between Plaintiff and the Defendants, which provides that neither party will do anything which will injure the right of the other to receive the Plaintiff's share of the proceeds from the sales of his goods through the AMAZON website of the business relationship and that all parties have the duty to do everything that the terms of the business relationship presuppose will be done to accomplish that purpose.

166. On information and belief, Defendants breached the implied covenant of good faith and fair dealing by (A) failing to disclose to Plaintiff that if Plaintiff was investigated by any law enforcement agency or at least, by the CALIFORNIA HIGHWAY PATROL (or even if unsupported claims were merely made against Plaintiff) then AMAZON would refuse to pay the Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods and (B) retain all Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods, required to be paid under the Agreement paid for by Plaintiff.

167. On information and belief, as an indication of the many acts undertaken by Defendants, and each of them, that breached this covenant, Defendants have failed and continue to fail to pay to the order of Plaintiff the sums that they contracted to pay Plaintiff as alleged herein, which they were obliged to

1 pay under the Agreement that they enter into with Plaintiff as to the sales of his
2 goods through the AMAZON website.
3

4 168. On information and belief, as a direct, proximate, and foreseeable
5 result of Defendants' egregious acts, by unilaterally breaching the covenant of good
6 faith and fair dealing, Plaintiff was placed in a significantly worse financial
7 condition as a result of Plaintiff's interaction with the Defendants, because Plaintiff
8 was induced to incur and then lost even the value of his goods which Plaintiff
9 would not have delivered to AMAZON if he had known that Defendants did not
10 intend to pay the full proceeds under the AMAZON Agreement. On information
11 and belief, as a direct, proximate, and foreseeable result of Defendants' egregious
12 acts, Plaintiff has had to incur attorneys' fees and costs engaged in this lawsuit
13 before the court and has lost significant monies therefrom.

14 169. On information and belief, the aforementioned conduct of Defendants,
15 and each of them, by depriving Plaintiff of funds and property that otherwise
16 belong to Plaintiff as alleged herein, was willful, malicious, and purposely
17 executed by Defendants and each of them with the intent to thereby deprive
18 Plaintiff of Plaintiff's property, legal rights thereto, or otherwise cause injury. On
19 information and belief, said conduct was oppressive and despicable, in that it
20 subjected Plaintiff to cruel and unjust hardship, in conscious disregard of
21 Plaintiff's rights, so as to justify an award of punitive damages.

22 170. On information and belief, under their Conspiracy and their
23 misrepresentations and concealment of material facts while defendants AMAZON
24 was the seller of the goods of Plaintiff and was receiving a portion of the sales
25 proceeds from the sales of Plaintiff's goods, Defendants, through AMAZON, had a
fiduciary relationship and a relationship of trust and confidence with Plaintiff,
Defendants knowingly received and then withheld the sums received from the sales
of the goods of Plaintiff under the AMAZON Agreement through fraud and

1 misrepresentations and have them withheld continually from Plaintiff, which they
2 abused and breached by refusing to pay Plaintiff the full Plaintiff's share of the
3 proceeds from AMAZON's sales of Plaintiff's goods as alleged.

4 171. On information and belief, Plaintiff is entitled to recover damages,
5 costs of suit, and reasonable attorney fees from Defendants due to their inducing
6 him to give AMAZON their goods, even after the Investigation had been started
7 and AMAZON intended to keep the full proceeds from the sales of Plaintiff's
8 goods by false pretenses and fraud in disregard of their representations in the
9 AMAZON Agreement and representations that they made after the Investigation
was started.

10 172. On information and belief, Plaintiff was and is entitled to the full
11 Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods under
12 the AMAZON Agreement plus interest thereon.

13 173. On information and belief, Plaintiff is entitled to recover from
14 Defendants the additional sum of punitive damages on that sum which amount to
15 \$50,000,000 to deter and punish such conduct by Defendants.

16 174. On information and belief, under California Civil Code Section 1717
17 and California Code of Civil Procedure §1021.5, Plaintiff is entitled to additional
18 sums for reasonable attorneys' fees incurred before this action and in this action to
19 collect the sums incurred by him in legal fees and costs to seek to compel
20 Defendants to pay the full amount required by the AMAZON Agreement plus
21 interest at the legal rate.

22 175. On information and belief, Plaintiff is therefore entitled to the
23 Plaintiff's portion of the proceeds from the sales of Plaintiff's goods through
24 AMAZON's website plus legal fees, and costs, plus interest at the legal rate on
25 such sum from Defendants for his aforementioned damages.

176. On information and belief, as a result of Defendants' unfair business practices and breach of the AMAZON Agreement, Plaintiff is also entitled to reasonable attorney's fees and costs of this suit under Cal. Civ. Code § 1717, California Code of Civil Procedure §1021.5, or other applicable **statutes**.

177. On information and belief, Plaintiff is also entitled to interest at the legal rate on the Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods that remain unpaid and, on the costs, and legal fees incurred by Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum from October 28, 2020.

NINTH CAUSE OF ACTION

*(Breach of Contract Against Defendants AMAZON,
and DOES 1 through 100.)*

178. The allegations of paragraphs 1 through 30, inclusive, are incorporated by reference in this Cause of Action.

179. For purposes of this cause of action, "Defendants" are Defendants AMAZON and DOES 1 through 100.

180. On information and belief, Defendants' actions as stated above constitute a material breach of the AMAZON Agreement. Plaintiff complied with all the terms of the AMAZON Agreement and delivered the merchandise of Plaintiff for AMAZON to sell in its website but did not receive Plaintiff's portion of the proceeds from AMAZON's sales of his merchandise as required by the AMAZON Agreement upon the sale of Plaintiff's goods through the AMAZON website.

181. Defendants violated, breached, and disregarded the AMAZON Agreement which they entered into with Plaintiff, and Defendant AMAZON, and DOES 1 through 100 breached their AMAZON Agreement and also failed to reveal their intent not to pay the full Plaintiff's share of the proceeds from

1 AMAZON's sales of Plaintiff's goods, and so failed to complete the Defendants'
2 performance or to pay for Plaintiff's damages.
3

4 182. Plaintiff did all or substantially all of the significant things that the
5 AMAZON Agreement required him to do if any or were excused from having to
6 do them.
7

8 183. All conditions specified in the contracts for Plaintiff's performance, if
9 any, were met, waived, or excused.
10

11 184. Plaintiff was harmed and on information and belief, Defendants'
12 breach of contract by violation of the AMAZON Agreement was a substantial
13 factor in causing Plaintiff's harm.
14

15 185. On information and belief, Plaintiff was harmed and Defendant's
16 breach of contract and the separate breach by defendant's (AMAZON and DOES 1
17 through 100) of their duties to Plaintiff by making false promises as pled in the
18 incorporated paragraphs, failing to disclose and concealing the intent not to give
19 Plaintiff Plaintiff's portion of the proceeds from AMAZON's sales of his
20 merchandise were substantial factors in causing Plaintiff's harm.
21

22 186. On information and belief, each of the Defendants were aware that
23 defendant AMAZON and DOES 1 through 100, planned to breach the AMAZON
24 Agreement and ratified such actions.
25

187. On information and belief, Defendants, including defendants DOES 1
through 100, ratified and approved defendant AMAZON's scheme to obtain funds
from Plaintiff under the AMAZON Agreement, then to breach the AMAZON
Agreement and keep both the funds of Plaintiff and Plaintiff's portion of the
proceeds from AMAZON's sales of his merchandise.

188. On information and belief, Defendants, including defendants DOES 1
through 100, agreed with AMAZON, and intended that they breach the AMAZON

1 Agreement (“Conspiracy”). Defendants failed to disclose their plan to breach the
2 AMAZON Agreement to Plaintiff.
3

4 189. Defendant AMAZON also breached its AMAZON Agreement, which
5 it breached by not paying its promised Plaintiff’s share of the proceeds from
6 AMAZON’s sales of Plaintiff’s goods or for Plaintiff’s damages.
7

8 190. On information and belief, Defendants, including defendant DOES 1
9 through 100, aided and abetted in the breach by giving substantial assistance or
10 encouragement to defendant AMAZON.
11

12 191. On information and belief, Defendants’ conduct was a substantial
13 factor in causing harm to Plaintiff.
14

15 192. On information and belief, Plaintiff has been damaged in that Plaintiff
16 has been forced to incur costs to recover the as yet unpaid portion of his promised
17 Plaintiff’s share of the proceeds from AMAZON’s sales of Plaintiff’s goods under
18 AMAZON Agreement, attorney’s fees, and costs to recover his damages, lost
19 interest, and expects to incur further incur more such costs as a result of
20 Defendants’ conduct.
21

22 193. On information and belief, Plaintiff is entitled to reasonable attorney’s
23 fees and costs of this suit under Cal. Civ. Code § 1717 or other applicable statutes.
24

25 194. On information and belief, Plaintiff is also entitled to interest at the
legal rate on the Plaintiff’s share of the proceeds from AMAZON’s sales of
Plaintiff’s goods that remain unpaid and, on the costs, and legal fees incurred by
Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum
from October 28, 2020.
26

27 ///
28 ///
29 ///
30

TENTH CAUSE OF ACTION
(Declaratory Relief Against All Defendants.)

195. The allegations of paragraphs 1 through 56, inclusive, are
incorporated by reference in this Cause of Action.

196. Under Code of Civil Procedure section 1060 et seq., the Court may
declare rights, status, and other legal relations whether or not further relief is or
could be claimed.

197. An actual controversy has arisen between Plaintiff and Defendants
AMAZON (and DOES 1 through 100) as to the rights, duties, responsibilities, and
obligations of the parties in that Plaintiff contends and, on information and belief,
Defendants dispute and deny that:

11 (a) despite being the prior and continuing seller of Plaintiff's goods through
12 the AMAZON website, AMAZON owed any duties of disclosure to
13 Plaintiff that if any investigation of Plaintiff was begun by any
14 government authority or at least by the CALIFORNIA HIGHWAY
15 PATROL (or if any such agencies made any claims against Plaintiff),
16 AMAZON would deny payment of the Plaintiff's share of the
17 proceeds from the sales of Plaintiff's goods through AMAZON's
18 website.

19 (b) AMAZON has a duty of good faith and fair dealing because it was
20 Plaintiff's seller of Plaintiff's goods through the AMAZON website to
21 disclose to Plaintiff that if any government agency or at least, if the
22 CALIFORNIA HIGHWAY PATROL started an investigation, then
23 AMAZON would deny payment of the Plaintiff's portion of the
24 proceeds from the sales of his goods through the AMAZON website.
25

1 198. Resolution of the duties, responsibilities, and obligations of the parties
2 is necessary as no adequate remedy at law exists and a declaration of the Court is
3 needed to resolve the dispute and controversy.

4 199. Plaintiff seeks a further Declaratory Judgment to determine whether
5 the AMAZON Agreement required AMAZON to pay Plaintiff the full Plaintiff's
6 share of the proceeds from the sales of his goods through the AMAZON website.

7 200. Plaintiff seeks a further Declaratory Judgment to the following effect:

- 8 (a) All of the goods that Plaintiff has sold through the AMAZON website
9 were legally owned by Plaintiff before they were sold and not illegal
10 or stolen in any way;
- 11 (b) The CALIFORNIA HIGHWAY PATROL's investigation has not
12 located any evidence that Plaintiff sold any stolen goods;
- 13 (c) The CALIFORNIA HIGHWAY PATROL's investigation has not located
14 any evidence that Plaintiff sold any illegal goods;
- 15 (d) The CALIFORNIA HIGHWAY PATROL does not have any basis to
16 assert any claims or criminal charges against Plaintiff;
- 17 (e) Plaintiff has not sold any stolen or illegal goods;
- 18 (f) Plaintiff has not sold any stolen or illegal goods through defendant
19 AMAZON;
- 20 (g) Plaintiff's goods, which it sold through defendant AMAZON, were not
21 stolen or illegal.

22 201. On information and belief, Plaintiff is also entitled to interest at the
23 legal rate on the Plaintiff's share of the proceeds from AMAZON's sales of
24 Plaintiff's goods that remain unpaid and, on the costs, and legal fees incurred by
25 Plaintiff to recover such sums at the legal rate of ten percent (10%) per annum
from October 28, 2020.

ELEVENTH CAUSE OF ACTION
(Accounting Against All Defendants.)

202. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

203. Defendants have maintained full control of and the management of the Subject Funds (the full, including the Plaintiff's share, proceeds from the sale by AMAZON of Plaintiff's goods as described above through AMAZON's website) since their sale of Plaintiff's goods, have secretly asserted ownership and control over those sums and secretly taken such to their own use, and have not provided Plaintiff nor Plaintiffs' counsel with a proper accounting of what they have done with the earnings and rents earned by the Subject Funds.

204. Plaintiffs requested and request from Defendants a full accounting of all funds obtained from the management and control of the Subject Funds since August 01, 2020. Defendants have refused and failed to provide such a requested accounting of the earnings and rents from the Subject Funds or any accounting whatsoever.

205. Plaintiffs have been damaged in a sum according to proof for all monies, properties, interest, and amounts taken and converted by Defendants through their own misconduct, plus interest at the legal rate on said amounts.

TWELFTH CAUSE OF ACTION
*(Temporary Restraining Order, Preliminary Injunction
And Permanent Injunction Against All Defendants.)*

206. The allegations of paragraphs 1 through 56, inclusive, are incorporated by reference in this Cause of Action.

207. On or about December 20, 2020, and a number of times since then, Plaintiffs have demanded that Defendants stop their wrongful conduct described

1 above. Defendants continue such wrongful conduct including keeping to
2 themselves the Subject Funds (the full, including the Plaintiff's share, proceeds
3 from the sale by AMAZON of Plaintiff's goods as described above through
4 AMAZON's website) since their sale of Plaintiff's goods and all earnings from
5 them, and Defendants have refused and still refuse to refrain from this conduct.
6

7 208. If an injunction is not granted, Plaintiffs will lose valuable property
8 (the Subject Funds arising from the goods of Plaintiff which Defendants converted
9 through their fraud upon Plaintiff and funds Defendants are receiving from the
10 Subject Funds which Defendants will conceal) tending to render any judgment
11 ineffectual and moot, unless Plaintiffs could obtain the funds illegally and
12 wrongfully taken from Plaintiffs by Defendants and prevent Defendants from
13 taking any further funds, because on information and belief, Defendants have made
14 repeated and continuing fraudulent transfers to other Defendants of converted
15 funds, have previously prevented Plaintiffs from getting access to their records and
bank accounts, have failed even to keep records, and have concealed records and
assets from Plaintiff.

16 209. Plaintiffs will incur great and irreparable injury if Defendant is
17 allowed to hide, fraudulently transfer, and conceal converted funds, records, assets
18 and files, as will numerous other persons who are or are becoming Defendants'
19 creditors, including their tenants, tending to render the eventual judgment in this
action ineffectual and moot.

20 210. To prevent said injury and harm and to insure to Plaintiff his
21 constitutionally guaranteed right of due process of having a hearing upon this
22 action, Plaintiff seeks to restrain and enjoin Defendants from completing and
23 continuing their acts of transferring away or concealing the converted assets
24 described above.
25

1 211. To restrain Defendants, Plaintiff seeks that this Court issue a
2 Temporary Restraining Order restraining Defendants, a **preliminary injunction**,
3 and thereafter, a permanent injunction barring the following actions by Defendants.
4

5 212. A temporary restraining order for the purposes of restraining and
6 enjoining Defendants and their respective agents, assigns, partners, employees and
7 representatives as follows:
8

9 (a) Restraining and Enjoining Defendants, and their respective agents,
10 assigns, partners, employees and representatives, from transferring away any
11 assets or any assets belonging to Plaintiffs, including the issuance thereafter
12 of a preliminary injunction restraining and barring said actions pending
13 resolution of this action, and thereafter of a permanent injunction barring
14 such actions.
15

16 (b) Restraining and Enjoining Defendants, and their respective agents,
17 assigns, partners, employees and representatives, from removing, destroying,
18 or concealing any of the financial or other records of the earnings from the
19 Subject Funds, including the issuance thereafter of a preliminary injunction
20 restraining and barring said actions pending resolution of this action, and
21 thereafter of a permanent injunction barring such actions.
22

23 (c) Restraining and Enjoining Defendants, and their respective agents,
24 assigns, partners, employees and representatives, from concealing or
25 withholding from Plaintiffs any of the financial or other records pertaining to
the Subject Funds, including the issuance thereafter of a preliminary
injunction restraining and barring said actions pending resolution of this
action, and thereafter, of a permanent injunction barring such actions.
26

27 (d) Restraining and Enjoining Defendants, and their respective agents,
28 assigns, partners, employees and representatives, from dissipating or
29 spending or withholding from Plaintiffs any of the future earnings from the
30

1 Subject Funds, including the issuance thereafter of a preliminary injunction
2 restraining and barring said actions pending resolution of this action, and
3 thereafter of a permanent injunction barring such actions.

4
WHEREFORE, Plaintiff prays Judgment against Defendants, and each of
5 them, as follows:

6
***AS TO THE FIRST, THIRD, FOURTH, SIXTH, EIGHTH, AND NINTH
CAUSES OF ACTION:***

- 7
8 1. For the principal sum according to proof, which is the Plaintiff's share of
9 the proceeds from AMAZON's sales of Plaintiff's goods that remain unpaid by
10 Defendants on Plaintiff's AMAZON Agreement;
11
12 2. For the sum of \$50,000,0000 as punitive damages;
13 3. For interest upon such Plaintiff's share of the proceeds from AMAZON's
14 sales of Plaintiff's goods, legal fees, and costs, at the legal rate of ten percent
15 (10%) per annum from December 1, 2021;

16
***AS TO THE SECOND, FIFTH, SEVENTH, AND ELEVENTH CAUSES OF
ACTION:***

- 17
18 4. For unpaid Plaintiff's share of the proceeds from AMAZON's sales of
19 Plaintiff's goods in a sum according to proof as damages;
20
21 5. For interest upon such Plaintiff's share of the proceeds from AMAZON's
22 sales of Plaintiff's goods at the legal rate of ten percent (10%) per annum from
23 October 28, 2020;
24
25 6. For reasonable attorneys' fees under Business & Professions Code §17082,
California Civil Code § 1717, California Code of Civil Procedure §1021.5, or other
applicable statutes.

1 ***AS TO THE TENTH CAUSE OF ACTION:***

2 7. For a declaration of the rights and interests of the parties in and to the
3 AMAZON Agreement and to the unpaid Plaintiff's share of the proceeds from
4 AMAZON's sales of Plaintiff's goods in a sum according to proof pursuant to the
5 AMAZON Agreement.

6 8. For an order declaring Plaintiff to be the sole owner of all right, title, and
7 interest in the unpaid Plaintiff's share of the proceeds from AMAZON's sales of
8 Plaintiff's goods in a sum according to proof pursuant to the AMAZON
9 Agreement held by Defendants.

10 9. For an order declaring Defendants to have no right, title, or interest in the
11 unpaid Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods
12 in a sum according to proof pursuant to the AMAZON Agreement held by
13 Defendants.

14 10. For an order compelling Defendants, and each of them, to convey to
15 Plaintiff the unpaid Plaintiff's share of the proceeds from AMAZON's sales of
16 Plaintiff's goods in a sum according to proof pursuant to the AMAZON
17 Agreement held by Defendants.

18 ***AS TO THE ELEVENTH CAUSE OF ACTION:***

19 11. For the following orders:

20 a. For an accounting between Plaintiffs and Defendants;
21 b. For payment to Plaintiffs of the amount due from Defendant AMAZON as
22 a result of the account, including but not limited to the Plaintiff's share of the
23 proceeds from the sales of his goods by defendant AMAZON.

24 ***AS TO THE TWELFTH CAUSE OF ACTION:***

25 12. For the following orders:

- 1 a) For an order requiring Defendants, and each of them, to show cause, if
any they have, why they should not be enjoined as set forth below, during
the pendency of this action;
- 2 b) For a temporary restraining order, a preliminary injunction, and a
permanent injunction, all enjoining defendants AMAZON, DOES 1 through
100, (“Defendants”) inclusive, and their respective agents, assigns, partners,
employees and representatives as follows:

3 i) To provide to any designated AMAZON sellers,
4 including Plaintiff, the full sum of any denied
5 sellers’ (including Plaintiff’s) share of the proceeds
6 from AMAZON’s sales of such sellers’ (including
7 Plaintiff’s) goods, which were denied because of,
8 on information and belief, Defendants’ unfair
9 business practices of (a) failing to clearly tell other
10 AMAZON sellers and prospective other
11 AMAZON sellers that if any investigation were
12 started against them by any law enforcement
13 authority or at least, by The CALIFORNIA
14 HIGHWAY PATROL (or if any claims were made
15 against such sellers, including Plaintiff),
16 AMAZON would use of that investigation or
17 claims to deny them payment of their share of the
18 proceeds from the sales of their goods through the
19 AMAZON website later and (b) of failing to
20 diligently investigate and ascertain that there is no
21 evidence that Plaintiff ever sold stolen or illegal
22 goods through the AMAZON website, including
23
24
25

1 by paying to Plaintiff, the full remaining Plaintiff's
2 share of the proceeds from AMAZON's sales of
3 Plaintiff's goods to Plaintiff identified in their
4 AMAZON Agreement (including the unpaid
5 portion owed to Plaintiff from the proceeds of
6 AMAZON's sales of his goods) with Plaintiff.

- 7 ii) To provide to Plaintiff, the full sum of Plaintiff's
8 share of the proceeds from AMAZON's sales of
9 Plaintiff's goods.
- 10 iii) To provide any plaintiffs of any lawsuits or
11 arbitration claims made against Defendants full
12 reimbursement of all payments obtained by these
13 business practices by any of Defendants as to
14 which Defendants have not completed delivery of
15 those plaintiffs' respective portions of the proceeds
16 from AMAZON's sales of their merchandise;
- 17 iv) To provide to all other AMAZON sellers or
18 prospective other AMAZON sellers who are about
19 to enter into any agreements with Defendants a
20 written, 14-point, bold-face type warning and
21 disclosure of the policy by AMAZON if any
22 investigation were started against them by any law
23 enforcement authority or at least, by The
24 CALIFORNIA HIGHWAY PATROL (or if any
25 such agency made any claims against such sellers),
AMAZON will use of that investigation or claims
to deny them payment of their share of the

1 proceeds from the sales of their goods through the
2 AMAZON website later and (b) of failing to
3 diligently investigate and ascertain that there is no
4 evidence in support of such claims or
5 investigation.

- 6 v) To provide to all other AMAZON sellers or
7 prospective other AMAZON sellers who enter into
8 any agreements with Defendants a written, 14-
9 point, bold-face type warning and disclosure of the
10 total number of other AMAZON sellers as of the
11 prior year whose share of the proceeds from the
12 sales of their goods through the AMAZON website
13 have been wholly or partially denied by AMAZON
14 because of any law enforcement investigations or
15 claims.
- 16 vi) To provide to all prospective other AMAZON
17 sellers of AMAZON who are about to enter into
18 any agreements with Defendants a separate 14-
19 point, bold-faced, written warning and disclosure
20 of the above business practices and procedure of
21 AMAZON that without any investigation or
22 hearing or legal determination, AMAZON will
23 force such sellers to forfeit and will deny payment
24 of such sellers' share of the proceeds from the
25 sales of their goods through the AMAZON
 website.

- vii) To provide restitution to all AMAZON sellers of their goods through the AMAZON website (including Plaintiff) of their unpaid share of the proceeds from AMAZON's sales of Plaintiff's goods unless Defendants have already delivered such portions of the proceeds from AMAZON's sales of their merchandise to them under the terms agreed upon as required by the respective, AMAZON agreements.
- viii) For the remaining, unpaid Plaintiff's share of the proceeds from AMAZON's sales of Plaintiff's goods in a sum according to proof as damages;
- ix) To pay all AMAZON sellers whose portion from the sales of their goods were withheld by AMAZON due to an alleged investigation or claims made without factual support, their reasonable attorneys' fees incurred to recover their share from the proceeds of the sales of their goods by AMAZON pursuant to California Civil Code § 1717, California Code of Civil Procedure §1021.5, Business and Professions Code Section 17082, or other applicable statutes.

13. For interest upon Plaintiff's unpaid share of the proceeds from AMAZON's sales of Plaintiff's goods, legal fees, and costs at the legal rate of ten percent (10%) per annum from October 28, 2020;

1 14. For reasonable attorneys' fees incurred to recover Plaintiff's share from the
2 proceeds of the sales of his goods by AMAZON pursuant to California Civil Code
3 § 1717, California Code of Civil Procedure §1021.5, Business and Professions
4 Code Section 17082, or other applicable statutes.

5 ***AS TO ALL CAUSES OF ACTION:***

6 15. For costs of suit incurred herein;

7 16. For reasonable attorneys' fees pursuant to California Civil Code § 1717, or
8 other applicable statutes.

9 17. For punitive damages in the sum of \$50,000,000;

10 18. For interest at the legal rate on the Plaintiff's share of the proceeds from
11 AMAZON's sales of Plaintiff's goods that remain unpaid and, on the costs, and
12 legal fees incurred by Plaintiff to recover such sums at the legal rate of ten percent
13 (10%) per annum from October 28, 2020;

14 19. For such other and further relief as the Court may deem just and proper;

15
16 Dated: February 28, 2023

17
18 By: 
Law Offices Of Lawrence Hoodack

19
20 Lawrence Hoodack
21 Attorneys for Plaintiff,
22 COSTLESS WHOLESALE, INC.
23 A CALIFORNIA CORPORATION